Before the
Federal Communications Commission
Washington, D.C.

In the Matter of	)	
	)	
Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991	)	CG Docket No. 02-278
	)	
	)	
Delete, Delete, Delete	)	GN Docket No. 25-133

COMMENTS OF THE AMERICAN BANKERS ASSOCIATION, AMERICAN FINANCIAL SERVICES ASSOCIATION, AMERICA'S CREDIT UNIONS, BANK POLICY INSTITUTE, EDISON ELECTRIC INSTITUTE, MORTGAGE BANKERS ASSOCIATION, AND STUDENT LOAN SERVICING ALLIANCE TO THE PUBLIC NOTICE

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TABLE OF CONTENTS

INTRODUCTION AND SUMMARY……...…….4

ARGUMENT……...6

I. THE COMMISSION SHOULD REVISE THE REVOCATION OF CONSENT ORDER……..…….……...….6

A. The Commission Should Rescind its "Revoke All" Requirement…….……..6

B. The Commission Should Prohibit Use of Non-Standardized Terms to Revoke Consent through Text Messages……..10

II. THE COMMISSION SHOULD RESCIND THE "3-IN-30 DAYS" LIMITATION ON THE EXEMPTION FOR INFORMATIONAL CALLS TO RESIDENTIAL NUMBERS……...….....12

III. THE COMMISSION SHOULD REMOVE THE "PROVIDED NUMBER" CONDITION TO THE EXEMPTION FOR FRAUD ALERTS AND OTHER SPECIFIED MESSAGES……..15

CONCLUSION……...…17

APPENDIX……19

INTRODUCTION AND SUMMARY

The American Bankers Association (ABA), American Financial Services Association, America's Credit Unions, Bank Policy Institute, Edison Electric Institute (EEI), Mortgage Bankers Association, and Student Loan Servicing Alliance[1] (the Associations) appreciate the opportunity to comment on the Federal Communications Commission's (Commission) invitation to identify rules that should be modified or rescinded because they are "unnecessary" or "affirmatively detrimental," including because the rule is inconsistent with President Trump's recent executive orders or the rule's costs exceed its benefits.[2]

Efficient, effective communications are essential if banks, credit unions, other financial services providers, electric utility companies, and other businesses are to serve their customers and comply with their regulatory obligations. Our members regularly seek to send time-critical, non-telemarketing communications to large numbers of customers promptly. These communications include suspicious activity alerts (also known as "fraud alerts"), fee avoidance alerts, data security breach notifications, and communications to service the customer's account (for financial institutions); and notifications about power outages, service restoration updates, facility repair status updates, and usage alerts and payment reminders (for electric utility companies). However, certain Commission rules implementing the Telephone Consumer Protection Act (TCPA) impair businesses' ability to place these consumer-benefitting calls and messages.

[1] A description of each Association is in the Appendix.
[2] *In re: Delete, Delete, Delete*, GN Docket No. 25-133, Public Notice (Mar. 12, 2025) [hereinafter, *Public Notice*].

Congress enacted the TCPA to combat abusive telemarketing practices[3] – and not to create "a barrier to the normal, expected or desired communications between businesses and their customers."[4] In 2021, the Supreme Court in *Facebook v. Duguid* confirmed that the TCPA's restrictions apply only to the abusive telemarketing practices targeted by the Act – i.e., telemarketers' practice of calling randomly or sequentially drawn numbers of consumers – and they do not apply to calls placed by legitimate businesses to stored lists of customer numbers.[5]

Despite this precedent and the TCPA's legislative history, certain Commission rules incorrectly restrict the non-telemarketing (informational) calls that banks, credit unions, other financial services providers, and electric utility companies place to their customers. We urge the Commission to:

- Revise its February 2024 order on revocation of consent to ensure callers and text senders can accurately and efficiently process customer requests to revoke consent to receive autodialed or prerecorded voice calls.[6]

- Remove the limitation, adopted in 2022, that permits callers to place, over a 30-day period, only three exempt informational prerecorded or artificial voice calls to residential numbers.[7]

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[3] *See* Telephone Consumer Protection Act of 1991, Pub. L. No. 102-243, § 2(1), 105 Stat. 2394 (2012) (observing the "increased use of cost-effective telemarketing techniques"); S. Rep. No. 102-178, at 1 (1991) ("The use of automated equipment to engage in telemarketing is generating an increasing number of consumer complaints."); H.R. Rep. No. 102-317, at 6 (1991) (observing that automatic dialing systems permit telemarketers to provide a message to potential customers "without incurring the normal cost of human intervention").

[4] H.R. Rep. No. 102-317, at 17.

[5] *See Facebook v. Duguid*, 592 U.S. __, *7 (2021).

[6] *In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, Report and Order and Further Notice of Proposed Rulemaking, 39 FCC Rcd 1988 (2024) [hereinafter, *Order*].

[7] *See In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, Order (Dec. 27, 2022). The 2022 Order modified an Order that had been issued in 2020. *See id.*, Report and Order (Dec. 30, 2020) [hereinafter, *2020 Order*].

- Remove, from the Commission's 2015 order, the condition that permits a caller to place an exempt fraud alert or data reach notification (among other categories of calls exempted) only if the call is placed to a number that was provided by the customer.[8]

ARGUMENT

I. THE COMMISSION SHOULD REVISE THE REVOCATION OF CONSENT ORDER.

In the Report and Order (Order, or 2024 Order) released by the Commission on February 16, 2024, the Commission revised its rules regarding how a consumer may revoke consent to receive autodialed or prerecorded voice calls under the TCPA.[9] The Associations' members respect and carry out customer requests to opt out of receiving autodialed or prerecorded voice calls or text messages. However, two aspects of the Commission's revised revocation rules – regarding the scope of a consumer's revocation and how businesses should interpret ambiguous expressions of revocation – would make it challenging to interpret and process consumers' revocation requests. These provisions are "affirmatively detrimental"[10] to consumers and businesses alike and not consistent with the TCPA or President Trump's executive orders. The Commission should initiate rulemaking to rescind these two provisions.

a. The Commission Should Rescind the "Revoke All" Requirement

In the Order, the Commission stated that, once a consumer revokes consent to receive autodialed or prerecorded voice calls or text messages under the TCPA, the caller may no longer send the consumer *any* calls or text messages that require consent.[11] This provision could lead to unintended consequences, which may not align with the consumer's actual intent and could

[8] *Id.*, Declaratory Ruling and Order, 30 F.C.C. Rcd. 7961, 8024-25 (2015).
[9] *Order, supra* note 6, ¶¶ 9-32.
[10] *Public Notice, supra* note 2, at 2 ("Government-wide administrative law requires review of rules to ensure that unnecessary—or affirmatively detrimental—rules are not retained.").
[11] *Order, supra* note 6, ¶¶ 29-32.

potentially result in harm to the consumer. Applying this provision, if a consumer replies "stop" to revoke consent to receive one type of message – for example, future autodialed past-due text messages – the caller must stop sending all future communications by phone or text on unrelated matters, such as warnings about unusual credit card transactions (fraud alerts), low-balance alerts, multi-factor authentication (MFA) messages, or utility calls[12] – even if that was not the consumer's intent. Fraud alerts and MFA messages are particularly important tools that banks use to safeguard their customers. Disenrolling customers from fraud alerts – thereby reducing customers' awareness of fraudulent, or potentially fraudulent, activity on their account – is inconsistent with the work by the Administration and industries to reduce fraud and protect consumers.[13] MFA is a critical tool to prevent fraud on customers' accounts; it prevents unauthorized access by requiring the customer to enter a code, typically received by text, prior to gaining access to the account. If customers are opted out of receiving these texts, MFA could only be enabled via email or a phone call, options rarely chosen by a consumer. Without MFA protecting the account, the customer is exposed to significant risk.

The "revoke all" rule also could be interpreted to require a revocation request to be honored across business and consumer accounts. For example, if a customer used the same phone number to sign up for alerts on a business account and a personal account, then a

[12] Fraud alerts may be exempt from the TCPA's prior express consent requirement. However, the Commission has imposed a number of conditions that institutions must meet to place calls or texts under the exemption. *See In the Matter of Rules & Regulations Implementing the Tel. Consumer Prot. Act of 1991*, CG Docket No. 02-278, Declaratory Ruling and Order, 30 F.C.C. Rcd. 7961, 8024-25 (2015). Consequently, the exemption may be of limited value, and institutions may feel compelled to place fraud alerts only with the prior express consent of the called party.

[13] *See, e.g.*, *ABA Banking Journal*, *Nichols Renews Call for National Strategy on Fraud* (Apr. 8, 2025), https://bankingjournal.aba.com/2025/04/abas-nichols-renews-call-for-national-strategy-on-fraud/ (describing ABA's campaigns to education consumers on fraud risks and the association's call for a "whole-of-government" approach to combating fraud).

revocation request received in response to an alert on a business account may need to be applied to alerts sent on a personal account, and vice versa. This is unlikely to reflect the customer's intent in many cases.

Our members are seeking to design a system that allows the business to clarify the scope of revocation so that it does not apply a customer's revocation to a broader category of messages than the customer intended. But it is unclear whether businesses can design a system, within the Commission's TCPA rules and the limitations inherent in text communications, to avoid applying a customer's revocation more broadly than desired. To avoid harm to consumers, the best course is for the Commission to eliminate the rule by rescinding paragraphs 29-32 of the Order.[14]

The "revoke all" rule also should be eliminated because its costs outweigh its benefits.[15] The Commission's cost-benefit analysis fails to consider the significant operational changes

[14] We appreciate that the Commission granted a one-year extension of the April 11, 2025 effective date of this provision because of the significant challenges facing businesses with complying with the rule and designing systems to better ensure customers are not inadvertently opted out of a broader set of communications than they desire. *In the Matter of Rules & Regulations Implementing the Tel. Consumer Prot. Act of 1991*, CG Docket No. 02-278, Order (Apr. 7, 2025). The Associations, other associations representing financial institutions, a health care company, and a company operating an online consumer financial services platform had advocated for the extension in the provision's effective date. The compliance challenges that we described in *ex parte* letters filed prior to the Commission's extension underscore that the "revoke all" rule will cause tremendous harm to consumers. *See id.*, *Ex Parte* Letter of Am. Bankers Ass'n *et al.* (filed Mar. 26, 2025), https://www.fcc.gov/ecfs/document/10327154657670/1 [hereinafter, ABA Mar. 26, 2025 *Ex Parte* Letter]; *id.*, *Ex Parte* Letter of Am. Bankers Ass'n *et al.* (filed Mar. 11, 2025), https://www.fcc.gov/ecfs/document/103120311703713/1; *id.*, *Ex Parte* Letter of Steven A. Augustino, Counsel to MPulse (filed Mar. 21, 2025), https://www.fcc.gov/ecfs/document/10321253473521/1; *id.*, *Ex Parte* Letter of Heather Novitsky, Gen. Counsel, LendingTree, LLC (filed Apr. 7, 2025), https://www.fcc.gov/ecfs/document/104071779707968/1.

[15] *See Public Notice*, *supra* note 2, at 2-3 (observing that the "costs and benefits of a rule are relevant to retrospective review" of a rule).

necessary to implement the "revoke all" rule.[16] As described in our recent *ex parte* filings and in EEI's separate comments,[17] institutions with many business units typically have separate calling systems that must be integrated, institutions must communicate revocations with third parties hired to communicate with customers on specific issues, and smaller businesses will likely need to adopt manual processes to comply with the rule. In addition, businesses will face significant challenges – and costs – to design a system that allows the business, when receiving a consumer's revocation, to clarify the scope of revocation so that the business does not apply a customer's revocation to a broader category of messages than the customer intended.[18] Against these costs, the benefits of the "revoke all" provision are questionable. The Commission has provided no evidence that a consumer who replies "stop" to one type of text message seeks to stop receiving all future communications from the institution.

Finally, the Commission should eliminate the "revoke all" rule because it is not consistent with President Trump's recent executive orders or the text and structure of the TCPA.[19] Executive Order 14,219 requires all agencies, including the Commission, to review all regulations and identify regulations not based on the "best reading of the underlying statutory authority," regulations that "impose significant costs upon private parties that are not outweighed

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[16] *See Order*, *supra* note 6 (App. B, Final Regulatory Flexibility Analysis, ¶ 17).
[17] *See* footnote 14; *see also In the Matter of Rules & Regulations Implementing the Tel. Consumer Prot. Act of 1991*, CG Docket No. 02-278, Reply Comments of Edison Electric Institute and National Rural Electric Cooperatives Association 6, 14-15 (July 31, 2023), https://www.fcc.gov/ecfs/document/10731229016571/2 [hereinafter, EEI/NRECA Comments].
[18] *See* ABA Mar. 26, 2025 *Ex Parte* Letter, *supra* note 14, at 2; EEI/NRECA Comments, *supra* note 17, at 11 (stating that, under the "revoke all" rule, utilities would be forced to rely on human resources to perform additional interpretations of revocation requests).
[19] *See Public Notice*, *supra* note 2, at 2 ("encourage[ing] commenters to consider certain policy factors," including the "recent Presidential orders as well as statutory and regulatory retrospective review standards" when providing comment on Commission regulations that should be eliminated).

by public benefits," regulations that "impose undue burdens on small business . . . .."[20] The "revoke all" rule fits each of these classifications. It is not based on the "best reading" of the TCPA. The statute was not intended "to be a barrier to the normal, expected or desired communications between businesses and their customers."[21] The "revoke all" rule creates a "barrier" between an institution and its customers by requiring the institution to interpret a consumer's revocation as applying to all communications between the institution and the consumer, and not solely to the category of communications to which the revocation was directed. As described above, the provision also "impose[s] significant costs upon private parties" – both upon the consumers who are opted out of communications they wish to receive and the institutions who must implement these requirements, including small businesses. These costs are not "outweighed by public benefits," as there is no public benefit to applying a consumer's revocation more broadly than the consumer intended.

b. The Commission Should Prohibit Use of Non-Standardized Terms to Revoke Consent through Text Messages

The second provision in the 2024 Order that the Commission should rescind concerns how a consumer may revoke consent. In the Order, the Commission stated that a revocation request made using the words "stop," "quit," "end," "revoke," "opt out," "cancel," or "unsubscribe" that is sent in reply to an incoming text message constitutes a revocation.[22] We support this provision. We urged the Commission to establish a standardized set of words that, if used, would create a presumption that the revocation attempt is reasonable because this approach

[20] Executive Order 14,219, Ensuring Lawful Governance and Implementing the President's 'Department of Government Efficiency' Deregulatory Initiative, 90 Fed. Reg. 10,583, 10,583, § 2 (Feb. 25, 2025), https://public-inspection.federalregister.gov/2025-03138.pdf.
[21] H.R. Rep. No. 102-317, at 17 (1991).
[22] *See Order*, *supra* note 6, at 20 (Appx. A) (*to be codified at* 47 C.F.R. § 64.1200(a)(10)).

provides clarity to both consumers and businesses.[23] However, the Commission also stated in the Order that if a consumer uses words other than those listed above, the caller must treat the reply text message as a valid revocation request "if a reasonable person would understand those words to have conveyed a request to revoke consent."[24] This provision may lead consumers to send messages with non-standard text (e.g., "I do not want to receive any more texts") that cannot be read by automated processes, as a means to revoke consent. This would frustrate consumers—whose revocation requests may not be immediately processed—and text senders, who would need to use non-automated processes to process consumers' revocations of consent.

The provision also should be rescinded because its costs far exceed its benefits. The only benefit of the provision is to allow individuals to use a broader set of words to express a revocation of consent. But this benefit is *de minimis*. Text messages sent by banks, credit unions, other financial services providers, and electric utility companies are clear that the recipient can revoke consent to receive additional texts if they reply "STOP." There is no need for consumers to use a term that is not one of the Commission's seven standardized terms. Against the provision's *de minimis* benefit are substantial costs to banks and other callers. To comply, businesses need to develop a system to identify a revocation that uses non-standard terms. Some of our members have reported that, with each outbound texting campaign, they must build in a system for identifying reply texts that use non-standard terms, at substantial cost. Other members have reported manually reviewing all text messages received using non-standard terms (i.e.,

[23] *See In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, Comments of Am. Bankers Ass'n et al. (filed July 31, 2023), https://www.fcc.gov/ecfs/document/108011664508910/1 [hereinafter, ABA 2023 Comments]; EEI/NRECA Comments, *supra* note 17, at 12.

[24] *Order*, *supra* note 6, at 20 (Appx. A) (*to be codified at* 47 C.F.R. § 64.1200(a)(10)).

terms that the businesses' automated processes cannot identify) that were sent in response to certain types of outbound text messages in order to identify revocations, also at substantial cost.

In addition to these compliance costs, businesses face litigation risk with processing non-standard – and often ambiguous – expressions of revocation. Plaintiffs' law firms may counsel bank customers to reply to banks' text messages with "creative" revocation messages in order to generate lawsuits.[25] Although a court may ultimately determine that these means of revocation are not reasonable, the Commission's rules allow for litigation on the question of whether the revocation request was reasonable, causing companies to expend time and resources to litigate and potentially settle cases that do not have merit. Indeed, one bank reported that it manually reviews all non-standard text messages sent in response to the bank's outbound collections texts to reduce this litigation risk.

II. THE COMMISSION SHOULD RESCIND THE "3-IN-30 DAYS" LIMITATION ON THE EXEMPTION FOR INFORMATIONAL CALLS TO RESIDENTIAL NUMBERS

Because Congress sought in the TCPA to facilitate communications between businesses and their customers, the Act authorized the Commission to exempt prerecorded or artificial voice informational calls placed to residential telephone numbers from the Act's prior express consent requirement.[26] In 1992, pursuant to that authority, the Commission exempted calls to residential numbers, concluding that calls made to an individual with whom the caller has a prior business relationship do not adversely affect the individual's privacy interests (Informational Calls Exemption).[27] In 2022, the Commission issued an order that limited the number of exempted

[25] For a detailed description of plaintiffs' efforts to use creative expressions of revocation to generate TCPA lawsuits, see ABA's 2023 Comments, *supra* note 23, at 8-9.
[26] 47 U.S.C. § 227(b)(2)(B)(ii).
[27] *In re: Rules & Regulations Implementing the Tel. Consumer Prot. Act of 1991,* 7 FCC Rcd. 8752, 8770-71 ¶ 34 (1992).

informational, prerecorded or artificial voice calls that a caller may place to a residential number to three calls within any consecutive 30-day period (3-in-30-Days Rule).[28] The limitation, however, is inconsistent with the purposes of the TCPA, TRACED Act, Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), and the Consumer Financial Protection Bureau's (CFPB) mortgage servicing rules. In addition, the costs of the rule exceed its benefits. For these reasons, we urge the Commission to initiate rulemaking to rescind the 3-in-30-Days Rule.

First, the legislative histories of the TCPA and the TRACED Act are devoid of evidence that informational calls cause the kind of harm that Congress sought to address in those Acts. Congress passed the TCPA in 1991 to combat abusive telemarketing, not informational calls placed to customers regarding the customer's account.[29] In 2019, Congress passed the TRACED Act to combat *illegal* and *unsolicited* automated calls.[30] Again, Congress did not target informational calls containing important account-related information. In sum, the legislative history of these Acts provided no justification for the Commission to impose a numerical limitation on the number of calls that may be placed under the Informational Calls Exemption.

Second, in the Dodd-Frank Act, Congress granted the CFPB exclusive authority to write rules to implement the Federal Debt Collection Practices Act's (FDCPA) prohibitions on

[28] *See In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, Order (Dec. 27, 2022).
[29] See footnote 3 and accompanying text.
[30] The Senate's report on the TRACED Act makes clear that the legislation was intended to combat illegal and unsolicited calls. *See* S. Rep No. 116-41, at 1-2 (2019) ("Unsolicited robocalls are among the top consumer complaints to the FCC, the Federal Trade Commission (FTC), and many State attorneys general."); *id.* at 2 ("Illegal and abusive robocalls are a clear problem."); *id.* ("Consumers today are increasingly plagued by illegal robotic or prerecorded messages."); *id.* ("The legislation provides the Commission flexibility to adopt rules . . . to combat unlawful calls and texts . . . .").

harassment and abuse, false or misleading representations, unfair means of collection, and other practices prohibited by the Act.[31] In 2020, the Bureau issued a rule that effectively limited collection messages to seven attempts to communicate per week and prohibited additional collection attempts for seven days after a live telephone communication with a debtor. In its rulemaking, the Bureau exercised its judgement on the appropriate number of collections-related calls that may be placed to consumers within a certain period of time. The Commission should defer to the Bureau's policy judgment on this question and rescind its more restrictive 3-in-30-Days Rule.

Third, the 3-in-30-Days Rule impedes the ability of banks as mortgage servicers to fulfil their obligations to communicate with mortgagees. The Bureau's rules require a servicer to make a good faith effort to establish live contact.[32] The rules also acknowledge that this effort "may include telephoning the borrower on more than one occasion."[33] Frequently, a caller receives a busy signal, answering machine, or no answer when calling a number. It is not unusual for a caller to dial a called party's number multiple times before the caller makes "live contact." The 3-in-30-Days Rule discourages banks from placing mortgage servicing or other informational calls to customers, jeopardizing a borrower's opportunity to receive critical, time-sensitive assistance. Borrowers at risk of default or foreclosure may ultimately suffer the most, as reduced contact efforts could delay or prevent the delivery of information about loss mitigation options, forbearance, or other relief programs that could help them retain their homes.

[31] Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 2092 (2010).
[32] 12 C.F.R. § 1024.39(a) (2020).
[33] *Id.*

Finally, the costs of the 3-in-30-Days Rule far exceed its benefits. Our members report that, with the 3-in-30-Days restriction, the Informational Calls Exemption is of limited value because of the record keeping requirements inherent in the restriction. First, a caller must track, across business units, the number of exempt calls that it places so that, after placing three exempt calls, the caller places additional calls only with the consent of the called party. Second, the Commission's rules permit a customer to opt out of receiving additional calls under the Exemption.[34] Callers must track these opt outs – and track them separately from customer revocations of consent. ABA members report they are more likely to use the Informational Calls Exemption if the 3-in-30-Days Rule is rescinded. Against these costs are *de minimis* benefits. As stated above, there is no evidence that informational calls cause the harm that Congress sought to address in the TCPA or the TRACED Act.

IV. THE COMMISSION SHOULD REMOVE THE "PROVIDED NUMBER" CONDITION TO THE EXEMPTION FOR FRAUD ALERTS AND OTHER SPECIFIED MESSAGES

In its 2015 Declaratory Ruling and Order, at ABA's request, the Commission granted an exemption from the TCPA's requirements for time sensitive messages concerning (1) suspected fraud; (2) a breach of personal information; (3) remediation action customers can take; and (4) actions needed to arrange for receipt of pending mobile money transfers (ABA Exemption).[35] ABA petitioned for this Exemption because our members desire to contact *all* affected consumers quickly and efficiently to provide these pro-consumer messages, but fear of TCPA class action liability limits their ability to do so absent the Exemption. These calls are free to the

[34] *2020 Order, supra* note 7, ¶ 29.
[35] *In re: Rules & Regulations Implementing the Tel. Consumer Prot. Act of 1991,* Declaratory Ruling and Order, 30 F.C.C. Rcd. 7961, 8024-25 (2015).

customer—as is required by the TCPA for any calls exempted under the Commission's exemption authority provided in section 227(b)(2)(C) of title 47.[36]

In granting the ABA Exemption, the Commission imposed certain conditions on the Exemption that thwart the purpose of the Exemption. Most significantly, the Commission required financial institutions to send alerts *only* to a wireless number *provided by* the customer of the financial institution. We ask the Commission to initiate a rulemaking to remove this "provided number" condition and consider other revisions to the exemption.[37]

The "provided number" condition significantly reduces the value provided by the Exemption. In many cases, a bank may have acquired a customer's number through reliable means, but still cannot satisfy the "provided number" condition, including through the following means:

- The bank acquired the customer's account from another institution, such as through a merger, and there is no record of how the predecessor institution obtained the customer's number.
- The bank obtained the customer's number through the customer's incoming call to the bank. If the customer used the bank's automated systems, or otherwise did not speak with a bank representative, the customer may not have had an opportunity to provide his or her number to the bank.
- The customer's spouse provided the customer's number to the bank.

Even when a bank's records show that a number was acquired from the customer, this "provided number" condition effectively shifts to the bank the burden of proving that fact in the

[36] The exemption authority provided in 47 U.S.C. § 227(b)(2)(C) provides the Commission with authority to exempt from the TCPA calls to wireless numbers "that are not charged to the called party." This authority is separate from the exemption authority that the Commission used to exempt informational calls to residential numbers, which is found in § 227(b)(2)(B)(ii).

[37] In 2015, ABA filed a Petition for Reconsideration that seeks removal of this unnecessary condition. Pet. for Reconsideration of the Am. Bankers Ass'n, *Rules & Regulations Implementing the Tel. Consumer Prot. Act of 1991*, CG Docket No. 02-278 (2015), https://www.aba.com/advocacy/policy-analysis/tcpa-petition-reconsideration. The Commission has not acted on the Petition.

event of a challenge, increasing litigation risk. During the rulemaking proceeding, neither consumer advocacy groups nor any other party suggested the condition as appropriate or necessary. In a joint letter in 2020, ABA and the National Consumer Law Center asked the Commission to modify the ABA Exemption to permit fraud alerts placed to numbers obtained by the institution through one of the three means described above.[38] Largely as a result of the provided number condition, ABA understands that few banks are utilizing the ABA Exemption to make these calls. For those banks that use the Exemption, removal of the "provided number" condition would encourage banks to place a greater number of exempted calls, as removal of the condition would reduce banks' litigation risk.

We urge the Commission to initiate a rulemaking to remove the "provided number" condition and to make other modifications to the ABA Exemption.[39]

CONCLUSION

We commend the Commission for seeking to identify rules that should be modified or rescinded. We urge the Commission to initiate rulemakings to modify its February 2024 order on revocation of consent under the TCPA, the Commission's "3-in-30-Days" limitation, and the

[38] *See* Letter from Margot Saunders, Nat'l Consumer L. Ctr., & Jonathan Thessin, Am. Bankers Ass'n, to Marlene Dortch, Sec., Fed. Commc'ns Comm'n 3-4 (Apr. 23, 2020), https://www.aba.com/advocacy/policy-analysis/aba-consumer-group-urge-fcc-to-act-expeditiously-to-facilitate-covid-19-related-bank-calls.

[39] In a rulemaking to reconsider the ABA Exemption, we also would ask the Commission to make modest revisions to the Exemption. Specifically, we would ask the Commission to modify the Exemption's provision that permits a financial institution to send no more than three exempted messages per event over a three-day period to the customer of an affected account. We would ask the Commission to permit three exempted messages to each authorized user on the account. In a rulemaking, we also would ask the Commission to clarify that a message that protects the consumer from fraud or identity theft may exceed the Exemption's 160-character limit. These asks are described in detail in ABA's 2020 comment letter to the Commission. *See* Letter from Jonathan Thessin, Am. Bankers Ass'n, to Marlene H. Dortch, Sec., Fed. Commc'ns Comm'n 9-14 (Oct. 26, 2020), https://www.fcc.gov/ecfs/document/1027676027558/1.

"provided number" condition. Modification of these rules would facilitate the consumer-benefiting calls and text messages that banks, credit unions, other financial services providers, and electric utility companies place to their customers.

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APPENDIX

The American Bankers Association is the voice of the nation's $24.1 trillion banking industry, which is composed of small, regional and large banks that together employ approximately 2.1 million people, safeguard $19.2 trillion in deposits and extend $12.7 trillion in loans.

The American Financial Services Association (AFSA) is the national trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA members provide consumers with closed-end and open-end credit products including traditional installment loans, mortgages, direct and indirect vehicle financing, payment cards, and retail sales finance.

America's Credit Unions is the national trade association for consumers' best option for financial services: credit unions. America's Credit Unions advocates for policies that allow credit unions to effectively meet the needs of their nearly 142 million members nationwide.

The Bank Policy Institute is a nonpartisan public policy, research and advocacy group that represents universal banks, regional banks, and the major foreign banks doing business in the United States. BPI produces academic research and analysis on regulatory and monetary policy topics, analyzes and comments on proposed regulations, and represents the financial services industry with respect to cybersecurity, fraud, and other information security issues.

EEI is the association that represents U.S. investor-owned electric companies, which provide electricity to nearly 250 million Americans across all 50 states and the District of Columbia.

The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry that works to ensure the continued strength of the nation's residential

and commercial real estate markets, to expand homeownership, and to extend access to affordable housing to all Americans.

The Student Loan Servicing Alliance (SLSA) is the nonprofit trade association that focuses exclusively on student loan servicing issues. Our membership is responsible for servicing all federal student loans and the vast majority of private loans, and our membership is a mix of companies, state agencies, non-profits and their service partners. Our servicer members and affiliate members provide the full range of student loan servicing operations, repayment support, customer service, payment processing, and claims processing for tens of millions of federal and private loan borrowers across the country.